

## **Draft Wetlands Task Force Meeting Notes**

April 6, 2000

The meeting started at 8:40AM in the Director's conference room. T. Getz explained that J. Reitsma was at a meeting at the Governor's Office, but would join the Task Force later. The March meeting notes were introduced and T. Getz requested that comments be forwarded to him by 4/10.

The Working Groups presented progress to date and some draft recommendations as follows:

### **Statutory Working Group**

S. Coffey presented the results of the 2/24 and 3/15 statutory group meetings. The group has been reluctant to support reintroducing the Governor's Committee wetlands bill because of the lack of prior year's success in the legislature. Instead, the group focused on less controversial issues for possible statutory and regulatory changes and include the following recommendations:

- 1) The idea of a draft wetlands permit for long term development projects was dropped and instead is considering legislative changes to eliminate any permit time limits in the Act.
- 2) The Declaration of Intent of the Act should be strengthened and should include a no net loss policy.
- 3) A variance procedure is not appropriate when there are no hard and fast standards in place.
- 4) Expansion of jurisdiction through legislative change would be controversial and instead recommends that the regulations be changed to allow wetlands to be treated differently and standards be set for activities within the 50-foot perimeter wetland, and 100-foot and 200-foot riverbank wetlands.

S. Coffey explained that the issue of municipal involvement in the application process and third party access to properties would be discussed at the next meeting on 4/13.

P. Ryan expressed Save the Bay's opinion that regulatory changes should only be addressed this year and that statutory change not be introduced this year. Save the Bay does not support piecemeal changes to the Act. S. Coffey expressed that most of his group agrees that statutory changes not be introduced this session. T. Getz expressed the Director's wish to keep the door open with the legislature if there are any statutory issues that are agreed upon by the group and the Task Force.

### **DEM/CRMC/FEMA Consistency Working Group**

D. Reis presented the results of the 2/29 and 3/22 working group meetings and included the following recommendations:

- 1) A group member pointed out the DEM/CRMC inconsistencies in regards to denitrification requirements. This issue was deferred to the ISDS Task Force, which will be getting underway shortly.
- 2) CRMC has agreed to use a 10-foot setback within "that area of land within 50 feet of freshwater wetlands in the vicinity of the coast," which will mimic DEM's approach in the

50-foot perimeter wetland. In 100 or 200 foot riverbanks, CRMC will use a 25 foot setback which is consistent with their own practices.

- 3) There are still two areas of continuing dual jurisdiction of freshwater wetlands. A dual review remains in place for those freshwater wetlands that are on the DEM's side of the jurisdictional boundary and are also within a CRMC Special Area Management Plan. The group recommended that DEM and CRMC process applications concurrently and have a dual public notice. The other area of dual review is where tidal rivers extend shoreward of the jurisdictional boundary. D. Reis suggested that CRMC would consider pulling the tidal river limits back to the boundary.

E. Marks questioned the basis of using a 10-foot setback and rather suggested that due to site characteristics this could vary. D. Reis explained that the setback allows a construction zone around structures. A. Walsh pointed to a Massachusetts study that concluded that a smaller wetland buffer allows more of it to be lost over time. D. Reis pointed out that the setbacks are management practices within the existing rules.

### **Inclusive Meetings Working Group**

R. Gagnon summarized the results of this group and indicated it recommends that city and town planners be given the opportunity to attend pre-application meetings conducted by the DEM Office of Technical and Customer Assistance and by the Wetlands Program. R. Gagnon will draft a policy on pre-application meetings for the 5/4 Task Force meeting. R. Gagnon and C. Horbert agreed to work with planners more and to attend meetings of the RI Planners Assoc.

### **Simple Applications / Exemptions/ Beneficial Projects Working Group**

C. Horbert summarized the recommendations of this work group and in R. Chateaufneuf's absence, the exemptions work group. C. Horbert presented draft changes to Rule 9.09 regarding permit modifications. He also explained what application types currently get priority review within the Wetlands Program. The exemptions group has discussed a new application type (like a FONSI) for projects where the public needs clarification of application of the wetlands regulations, for almost exempt projects, and for non-jurisdiction projects provided that there is a verified wetland edge. For non-jurisdiction projects a wetland edge would have to be verified or represented with the project.

J. Bachand pointed out that farmers who own adjacent property may be exempt from the regulations based upon their incomes. He recommended that the definition of farmer be changed in the Act. K. Ayars explained that he is looking at the income basis of the farmer definition and is considering introducing changes to that definition.

J. Bachand recommended that water quality improvement projects and wildlife habitat improvement projects be planned and designed by a team of experts that would result in less review needed by DEM during the application stage.

F. Golet pointed out that with so much emphasis on streamlining, Wetland Program supervisors have little opportunity to strengthen the protection of wetlands. T. Getz explained that the intention is not to have speed at any cost, but to identify ways that protection and streamlining are compatible.

## **Watersheds Working Group**

C. Mason presented the draft administrative, regulatory and policy recommendations developed by the group. See the 4/6 handout for the full list of recommendations. C. Mason solicited comments from other Task Force members on these recommendations. He explained that the recommendations are protection oriented and that the basis of many is predictability of the permitting process. The following recommendations were discussed:

- 1) The Wetlands Program should be integrated into the watershed approach, that local input be solicited during the application review period, and that guidelines be developed for consultants to increase predictability.
- 2) Input should be sought from the watershed stakeholders during the application review period, that the decision as to whether an alteration is insignificant or significant should consider its place in the watershed, and that DEM should post decisions on the web.
- 3) Wetland size thresholds should not be established at this time.
- 4) DEM should articulate functions, values, and sensitivity of wetlands to enhance predictability of application decisions. C. Mason introduced a tiered wetland buffer table developed by URI in 1998 and suggested that the table or one similar could be used as guidance material for applicants.
- 5) Cumulative impacts to wetlands are a concern and the regulations do not address this issue. Several specific measures were recommended.
- 6) Activities that take place outside of regulated areas do affect wetlands, and standards should be developed for non-jurisdiction applications. The group recommended many local initiatives.
- 7) The program should consider developing a mitigation policy, guidance on buffer plantings and BMPs, and be consistent with other agencies.

## **Outreach Working Group**

B. Wolfenden reported the results of the outreach working group meetings of 3/9 and 3/30. The following recommendations were made:

1. An interagency team should develop a wetland education and outreach strategy and an implementation team should work with DEM on development of materials and training programs.
  2. A new statewide wetlands mapping should be developed particularly for use by the municipalities.
  3. Joint DEM and municipal meetings should be encouraged at both the pre-application stage and during application review.
  4. Pertinent information about active applications should be posted on the DEM website.
- These issues will be discussed more at the next outreach meeting on 4/27.

T. Getz and J. Reitsma concluded the meeting by explaining that the working groups will continue to report recommendations at the May and June Task Force meetings. The groups will be asked to prioritize the recommendations and DEM will incorporate these into a final implementation report.

**The next Wetland Task Force meeting is scheduled for 5/4 at 8:30AM in Room 300 on the third floor. Please note, this is a change from previous meetings location.**